

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

ROGER UVALLE,	§	
TDCJ No. 625717,	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-05-2647
	§	
ERNESTINE JULYE,	§	
	§	
Defendant.	§	

**MEMORANDUM ON DISMISSAL**

Plaintiff filed a civil rights complaint under 42 U.S.C. § 1983. He is incarcerated in the Texas Department of Criminal Justice. Plaintiff claims the denial of adequate medical care, retaliation, and harassment. Plaintiff admits he did not file both grievance steps under the TDCJ grievance procedures. *See* Original Complaint, p. 2, ¶ III.

Title 42 U.S.C. § 1997e provides that:

No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

42 U.S.C. § 1997e(a) (Supp. 1996). Under section 1997e, an inmate must exhaust his administrative remedies before filing suit. *See Underwood v. Wilson*, 151 F.3d 292, 296 (5th Cir. 1998).

The district court may *sua sponte* dismiss a prisoner action if it fails to state a

claim on which relief may be granted. 28 U.S.C. § 1915A(b)(1). Plaintiff's claims will be dismissed for failure to exhaust available administrative remedies. It is, therefore, ORDERED that this complaint filed is DISMISSED under 28 U.S.C. § 1915A(b)(1) for failure to state a claim upon which relief may be granted.

Plaintiff has not moved to proceed *in forma pauperis* or paid the filing fee. As a prisoner, he became obligated to pay the full filing fee on filing this lawsuit. *See* 28 U.S.C. § 1915(b)(1). Accordingly, the TDCJ-ID Inmate Trust Fund is ORDERED to deduct 20% of each deposit made to Roger Uvalle's inmate account, TDCJ No. 625717, and forward the funds to the Clerk on a regular basis, according to the provisions of 28 U.S.C. § 1915(b)(2), until the entire filing fee (\$250) has been paid.

The Clerk will provide a copy to the Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629, Fax: 936-437-4793; and the District Clerk for the Eastern District of Texas, 211 West Ferguson, Tyler, Texas 75702, Attn: Betty Parker.

SIGNED at Houston, Texas, on this 5<sup>th</sup> day of August, 2005.



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DAVID HITTNER

United States District Judge